

(e) USE AS EVIDENCE OF INTERCEPTED WIRE OR ORAL COMMUNICATIONS.—Section 2515 of title 18, United States Code, is amended by inserting before the period at the end the following: “, unless the authority in possession of the intercepted communication attempted in good faith to comply with this chapter. If the United States or any State of the United States, or subdivision thereof, possesses a communication intercepted by a nongovernmental actor, without the knowledge of the United States, that State, or that subdivision, the communication may be introduced into evidence”.

(f) AUTHORIZATION FOR INTERCEPTION OF WIRE, ORAL, OR ELECTRONIC COMMUNICATIONS.—Section 2516(i) of title 18, United States Code, is amended—

(1) by striking “and” at the end of paragraph (n);

(2) by striking the period at the end of paragraph (o) and inserting “; and”; and

(3) by adding at the end the following new paragraph:

“(p) any violation of section 1962 of title 18.”.

(g) PROCEDURES FOR INTERCEPTION.—Section 2518(4)(b) of title 18, United States Code, is amended by inserting before the semicolon the following: “to the extent feasible”.

(h) COMPUTER CRIMES.—

(1) NEW PROHIBITED ACTIVITIES.—Chapter 47 of title 18, United States Code, is amended by adding at the end the following new section:

“§ 1030A. Racketeering-related crimes involving computers

“(a) It shall be unlawful—

“(1) to use a computer or computer network to transfer unlicensed computer software, regardless of whether the transfer is performed for economic consideration;

“(2) to distribute computer software that encodes or encrypts electronic or digital communications to computer networks that the person distributing the software knows or reasonably should know, is accessible to foreign nationals and foreign governments, regardless of whether such software has been designated as nonexportable; and

“(3) to use a computer or computer network to transmit a communication intended to conceal or hide the origin of money or other assets, tangible or intangible, that were derived from racketeering activity; and

“(4) to operate a computer or computer network primarily to facilitate racketeering activity or primarily to engage in conduct prohibited by Federal or State law.

“(b) For purposes of this section, each act of distributing software is considered a separate predicate act. Each instance in which nonexportable software is accessed by a foreign government, an agent of a foreign government, a foreign national, or an agent of a foreign national, shall be considered as a separate predicate act.

“(c) It shall be an affirmative defense to prosecution under this section that the software at issue used a universal decoding device or program that was provided to the Department of Justice prior to the distribution.”.

(2) CLERICAL AMENDMENT.—The analysis at the beginning of chapter 47, United States Code, is amended by adding at the end the following new item:

“1030A. Racketeering-related crimes involving computers.”.

(3) JURISDICTION AND VENUE.—Section 1030 of title 18, United States Code, is amended by adding at the end the following new subsection:

“(g)(1)(A) Any act prohibited by this section that is committed using any computer, computer facility, or computer network that is physically located within the territorial jurisdiction of the United States shall be

deemed to have been committed within the territorial jurisdiction of the United States.

“(B) Any action taken in furtherance of an act described in subparagraph (A) shall be deemed to have been committed in the territorial jurisdiction of the United States.

“(2) In any prosecution under this section involving acts deemed to be committed within the territorial jurisdiction of the United States under this subsection, venue shall be proper where the computer, computer facility, or computer network was physically situated at the time at least one of the wrongful acts was committed.”.

(i) WIRE AND COMPUTER FRAUD.—Section 1343 of title 18, United States Code, is amended by striking “or television communication” and inserting “television communication, or computer network or facility”.

(j) PRIVACY PROTECTION ACT.—Section 101 of the Privacy Protection Act of 1980 (42 U.S.C. 2000aa) is amended—

(1) in subsection (a)—

(A) by striking “or” at the end of paragraph (1);

(B) by striking the period at the end of paragraph (2) and inserting “; or”; and

(C) by adding at the end the following new paragraph:

“(3) there is reason to believe that the immediate seizure of such materials is necessary to prevent the destruction or alteration of such documents.”; and

(2) in subsection (b)—

(A) by striking “or” at the end of paragraph (3);

(B) by striking the period at the end of paragraph (4) and inserting “; or”; and

(C) by adding at the end the following new paragraph:

“(5) in the case of electronically stored data, the seizure is incidental to an otherwise valid seizure, and the government officer or employee—

“(A) was not aware that work product material was among the data seized;

“(B) upon actual discovery of the existence of work product materials, the government officer or employee took reasonable steps to protect the privacy interests recognized by this section, including—

“(i) using utility software to seek and identify electronically stored data that may be commingled or combined with non-work product material; and

“(ii) upon actual identification of such material, taking reasonable steps to protect the privacy of the material, including seeking a search warrant.”.

ADDITIONAL COSPONSORS

S. 256

At the request of Mr. DOLE, the name of the Senator from Rhode Island [Mr. CHAFEE] was added as a cosponsor of S. 256, a bill to amend title 10, United States Code, to establish procedures for determining the status of certain missing members of the Armed Forces and certain civilians, and for other purposes.

S. 267

At the request of Mr. STEVENS, the name of the Senator from Oregon [Mr. PACKWOOD] was added as a cosponsor of S. 267, a bill to establish a system of licensing, reporting, and regulation for vessels of the United States fishing on the high seas, and for other purposes.

S. 304

At the request of Mr. SANTORUM, the name of the Senator from Maine [Ms. SNOWE] was added as a cosponsor of S.

304, a bill to amend the Internal Revenue Code of 1986 to repeal the transportation fuels tax applicable to commercial aviation.

S. 327

At the request of Mr. HATCH, the name of the Senator from Missouri [Mr. BOND] was added as a cosponsor of S. 327, a bill to amend the Internal Revenue Code of 1986 to provide clarification for the deductibility of expenses incurred by a taxpayer in connection with the business use of the home.

S. 426

At the request of Mr. SARBANES, the name of the Senator from Illinois [Ms. MOSELEY-BRAUN] was added as a cosponsor of S. 426, a bill to authorize the Alpha Phi Alpha Fraternity to establish a memorial to Martin Luther King, Jr., in the District of Columbia, and for other purposes.

S. 436

At the request of Mr. CAMPBELL, the names of the Senator from Kansas [Mrs. KASSEBAUM] and the Senator from Illinois [Mr. SIMON] were added as cosponsors of S. 436, a bill to improve the economic conditions and supply of housing in Native American communities by creating the Native American Financial Services Organization, and for other purposes.

S. 448

At the request of Mr. GRASSLEY, the name of the Senator from Rhode Island [Mr. CHAFEE] was added as a cosponsor of S. 448, a bill to amend section 118 of the Internal Revenue Code of 1986 to provide for certain exceptions from rules for determining contributions in aid of construction, and for other purposes.

S. 641

At the request of Mrs. KASSEBAUM, the name of the Senator from Maine [Ms. SNOWE] was added as a cosponsor of S. 641, a bill to reauthorize the Ryan White CARE Act of 1990, and for other purposes.

S. 892

At the request of Mr. GRASSLEY, the name of the Senator from Utah [Mr. HATCH] was added as a cosponsor of S. 892, a bill to amend section 1464 of title 18, United States Code, to punish transmission by computer of indecent material to minors.

S. 955

At the request of Mr. HATCH, the names of the Senator from Wisconsin [Mr. KOHL] and the Senator from Washington [Mr. GORTON] were added as cosponsors of S. 955, a bill to clarify the scope of coverage and amount of payment under the medicare program of items and services associated with the use in the furnishing of inpatient hospital services of certain medical devices approved for investigational use.

S. 959

At the request of Mr. HATCH, the name of the Senator from Idaho [Mr. KEMPTHORNE] was added as a cosponsor of S. 959, a bill to amend the Internal

Revenue Code of 1986 to encourage capital formation through reductions in taxes on capital gains, and for other purposes.

SENATE RESOLUTION 103

At the request of Mr. DOMENICI, the name of the Senator from Washington [Mrs. MURRAY] was added as a cosponsor of Senate Resolution 103, a resolution to proclaim the week of October 15 through October 21, 1995, as National Character Counts Week, and for other purposes.

SENATE RESOLUTION 117

At the request of Mr. ROTH, the name of the Senator from Washington [Mr. GORTON] was added as a cosponsor of Senate Resolution 117, a resolution expressing the sense of the Senate that the current Federal income tax deduction for interest paid on debt secured by a first or second home located in the United States should not be further restricted.

SENATE RESOLUTION 142—TO CONGRATULATE THE NEW JERSEY DEVILS

Mr. LAUTENBERG (for himself and Mr. BRADLEY) submitted the following resolution; which was considered and agreed to:

S. RES. 142

Whereas on October 5, 1982, the New Jersey Devils played their first National Hockey League game in New Jersey, embarking on a quest for the Stanley Cup which was satisfied 13 years later;

Whereas the Devils epitomize New Jersey pride with their heart, stamina, and drive and thus have become a part of New Jersey culture;

Whereas the New Jersey Devils won 10 games on the road during the Stanley Cup playoffs, thus demolishing the previous record;

Whereas the Devils have implemented an ingenious system known as the "trap" that was designed by head coach Jacques Lemaire which constantly stifled and frustrated their opponents;

Whereas Conn Smythe trophy winner Claude Lemieux led the league with 13 playoff goals, three of which were game-winners, and goalie Martin Brodeur led the league with a 1.67 goals-against average during the playoffs;

Whereas the New Jersey hockey fans are the best fans in the nation and deserve commendation for helping build the team into championship caliber and for supporting the Devils during their drive for the Stanley Cup;

Whereas the New Jersey Devils during the playoffs beat Boston, Pittsburgh, Philadelphia and in the finals swept the heavily favored Detroit Red Wings in four games giving the state of New Jersey its first-ever championship for a major league team officially bearing the state's name: Now, therefore, be it

Resolved, That the Senate congratulates the New Jersey Devils for their outstanding discipline, determination, emotion, and ingenuity, in winning the 1995 NHL Stanley Cup.

AMENDMENTS SUBMITTED ON
JUNE 26, 1995THE PRIVATE SECURITIES
LITIGATION REFORM ACT OF 1995

BRYAN AMENDMENT NO. 1474

Mr. BRYAN proposed an amendment to the bill (S. 240) to amend the Securities Exchange Act of 1934 to establish a filing deadline and to provide certain safeguards to ensure that the interests of investors are well protected under the implied private action provisions of the act; as follows:

On page 127, strike line 20 and all that follows through page 128, line 15, and insert the following:

SEC. 108. AUTHORITY OF COMMISSION TO PROSECUTE AIDING AND ABETTING.

(a) SECURITIES ACT OF 1933.—Section 20 of the Securities Act of 1933 (15 U.S.C. 77t) is amended by adding at the end the following new subsection:

"(n) PROSECUTION OF PERSONS WHO AID OR ABET VIOLATIONS.—For purposes of subsections (b) and (d), any person who knowingly or recklessly provides substantial assistance to another person in the violation of a provision of this title, or of any rule or regulation promulgated under this title, shall be deemed to violate such provision to the same extent as the person to whom such assistance is provided. No person shall be liable under this subsection based on an omission or failure to act unless such omission or failure constituted a breach of a duty owed by such person."

(b) SECURITIES EXCHANGE ACT OF 1934.—Section 20 of the securities exchange Act of 1934 (15 U.S.C. 78t) is amended—

(1) by adding at the end the following new subsection:

"(e) PROSECUTION OF PERSONS WHO AID OR ABET VIOLATIONS.—For purposes of paragraphs (1) and (3) of section 21(d), or an action by a self-regulatory organization, or an express or implied private right of action arising under this title, any person who knowingly or recklessly provides substantial assistance to another person in the violation of a provision of this title, or of any rule or regulation promulgated under this title, shall be deemed to violate such provision and shall be liable to the same extent as the person to whom such assistance is provided. No person shall be liable under this subsection based on an omission or failure to act unless such omission or failure constituted a breach of a duty owed by such person."; and

(2) by striking the section heading and inserting the following:

"SEC. 20. LIABILITY OF CONTROLLING PERSONS AND PERSONS WHO AID OR ABET VIOLATIONS."

(c) INVESTMENT COMPANY ACT OF 1940.—Section 42 of the Investment Company Act of 1940 (15 U.S.C. 81a-41) is amended by adding at the end the following new subsection:

"(f) PROSECUTION OF PERSONS WHO AID OR ABET VIOLATIONS.—For purposes of subsections (d) and (e), any person who knowingly or recklessly provides substantial assistance to another person in the violation of a provision of this title, or of any rule, regulation, or order promulgated under this title, shall be deemed to violate such provision to the same extent as the person to whom such assistance is provided. No person shall be liable under this subsection based on an omission or failure to act unless such omission or failure constituted a breach of a duty owed by such person."

(d) INVESTMENT ADVISERS ACT OF 1940.—Section 209(d) of the Investment Advisers Act of 1940 (15 U.S.C. 80b-9) is amended)

(1) in subsection (d)—

(A) by striking "or that any person has aided, abetted, counseled, commanded, induced, or procured, is aiding, abetting, counseling, commanding, inducing, or procuring, or is about to aid, abet, counsel, command, induce, or procure such a violation,"; and

(B) by striking "or in aiding, abetting, counseling, commanding, inducing, or procuring any such act or practice"; and

(2) by adding at the end the following new subsection:

"(f) PROSECUTION OF PERSONS WHO AID OR ABET VIOLATIONS.—For purposes of subsections (d) and (e), any person who knowingly or recklessly provides substantial assistance to another person in the violation of a provision of this title, or of any rule, regulation, or order promulgated under this title, shall be deemed to violate such provision to the same extent as the person to whom such assistance is provided. No person shall be liable under this subsection based on an omission or failure to act unless such omission or failure constituted a breach of duty owed by such person."

BOXER (AND BINGAMAN)
AMENDMENT NO. 1475

Mrs. BOXER (for herself and Mr. BINGAMAN) proposed an amendment to the bill, S. 240, supra; as follows:

On page 98, strike line 3, and all that follows through page 100, line 22, and insert the following:

"(2) APPOINTMENT OF LEAD PLAINTIFF OR PLAINTIFFS.—Not later than 90 days after the date on which a notice is published under subparagraph (A) or (B) of paragraph (1), the court shall determine whether all named plaintiffs acting on behalf of the purported plaintiff class who have moved the court to be appointed to serve as lead plaintiff under paragraph (1)(A)(ii) have unanimously selected a named plaintiff or plaintiffs to serve as lead plaintiff or plaintiffs of the purported plaintiff class, and—

"(A) if so, shall appoint such named plaintiff or plaintiffs to serve as lead plaintiff or plaintiffs of the purported plaintiff class; or

"(B) if not, after considering all relevant factors, including, but not limited to financial interest in the relief sought, work done to develop and prosecute the case, the quality of the claim, prior experience representing classes, possible conflicting interests, and exposure to unique defenses, shall select and appoint a named plaintiff or plaintiffs to serve as lead plaintiff or plaintiffs of the purported plaintiff class.

"(3) SELECTION OF LEAD COUNSEL.—The lead plaintiff or plaintiffs appointed under paragraph (2) shall, subject to the approval of the court, select and retain counsel to represent the class."

On page 102, strike line 3, and all that follows through page 104, line 22, and insert the following:

"(2) APPOINTMENT OF LEAD PLAINTIFF OR PLAINTIFFS.—Not later than 90 days after the date on which a notice is published under subparagraph (A) or (B) of paragraph (1), the court shall determine whether all named plaintiffs acting on behalf of the purported plaintiff class who have moved the court to be appointed to serve as lead plaintiff under paragraph (1)(A)(ii) have unanimously selected a named plaintiff or plaintiffs to serve as lead plaintiff or plaintiffs of the purported plaintiff class, and—

"(A) if so, shall appoint such named plaintiff or plaintiffs to serve as lead plaintiff or plaintiffs of the purported plaintiff class; or